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BILL TEXT

CHAPTER 507

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INTRODUCED BY Senators Johnson, Alpert, Battin, Florez, Knight, McPherson, and Speier

(Coauthors: Assembly Members Bates, Benoit, Campbell, Cogdill, Daucher, Dutton, La Malfa, Longville, Maddox, Mountjoy, Nakanishi, Pacheco, Plescia, Spitzer, Strickland, and Wyland)

JANUARY 15, 2003

An act to add Section 964 to the Penal Code, relating to police reports, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 58, Johnson. Police reports: confidentiality.

Existing law provides Californians with a right of privacy. Existing law regulates the dissemination of personal information held by government agencies. Existing law exempts courts from the provisions of the California Public Records Act and permits a court to seal records and redact information from them.

This bill would require the district attorney and the courts in each county to establish a mutually agreeable procedure, as specified, to protect confidential personal information, as defined, regarding any witness or victim contained in a police report, arrest report, or investigative report that is submitted to a court by a prosecutor in support of a criminal complaint, indictment, or information, or by a prosecutor or law enforcement officer in support of a search warrant or an arrest warrant.

By requiring local prosecutors to establish a procedure with the courts for protecting the confidentiality of personal information in reports submitted to court, this bill would impose a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000. This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 964 is added to the Penal Code, to read:

964. (a) In each county, the district attorney and the courts, in consultation with any local law enforcement agencies that may desire to provide information or other assistance, shall establish a mutually agreeable procedure to protect confidential personal information regarding any witness or victim contained in a police report, arrest report, or investigative report if one of these reports is submitted to a court by a prosecutor in support of a criminal complaint, indictment, or information, or by a prosecutor or law enforcement officer in support of a search warrant or an arrest warrant.

(b) For purposes of this section, "confidential personal information" includes, but is not limited to, an address, telephone number, driver's license or California Identification Card number, social security number, date of birth, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings or checking account number, or credit card number.

(c) (1) This section may not be construed to impair or affect the provisions of Chapter 10 (commencing with Section 1054) of Title 6 of Part 2.

(2) This section may not be construed to impair or affect procedures regarding informant disclosure provided by Sections 1040b to 1042, inclusive, of the Evidence Code, or as altering procedures regarding sealed search warrant affidavits as provided by *People v. Hobbs* (1994) 7 Cal.4th 948.

(3) This section shall not be construed to impair or affect a criminal defense counsel's access to unredacted reports otherwise authorized by law, or the submission of documents in support of a civil complaint.

(4) This section applies as an exception to California Rule of Court 243.1, as provided by paragraph (2) of subdivision (a) of that rule.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the

Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the safety and privacy of victims and witnesses of crimes, to encourage witnesses to come forward and report crimes, and to combat the efforts of identity thieves to obtain the personal identifying information of California citizens, it is necessary that this act go into immediate effect.